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International Covenant on Civil and Political Rights

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Human Rights Committee

List of issues prior to the submission of the fifth periodic report of Argentina[1]

The Human Rights Committee, at its ninety-seventh session (A/65/40, vol. I, para. 40), established an optional procedure which consists in the preparation and adoption of a list of issues to be transmitted to the State party concerned prior to the submission of its periodic report. The replies of the State party to this list of issues will constitute its report under article 40 of the Covenant.

General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

1. Please provide detailed information on any significant developments in the legal and institutional framework for the promotion and protection of human rights at the federal and provincial levels that have taken place since the previous periodic report. Please also provide information on cases in which the provisions of the Covenant have been invoked before Argentine courts and on the measures taken to disseminate information on the Covenant among judges, lawyers and prosecutors.

2. Please provide information on significant political and administrative measures taken since the submission of the previous report to promote and protect human rights covered by the Covenant and on the resources allocated thereto, the means used for that purpose, their objectives and their results.

3. Please provide any other information on new measures taken to disseminate and implement the Committee's previous recommendations (CCPR/C/ARG/CO/4), including any relevant statistical data.

[1] Adopted by the Committee at its 110th session (10–28 January 2014).

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Specific information on the implementation of articles 1 to 27 of the Covenant, including information on action taken in response to the Committee's previous recommendations

Constitutional and legal framework for the implementation of the Covenant; right to an effective remedy (art. 2)

4. In the light of the Committee's previous concluding observations (CCPR/C/ARG/CO/4, para. 8), please indicate what measures have been taken to establish a mechanism to ensure the effective and consistent implementation of the Covenant at the federal and provincial levels. Please also provide information on the measures taken to ensure compliance with the Committee's Views under the Optional Protocol as expressed in communications Nos. 1608/2007 (V.D.A./L.M.R.) and 1458/2006 (Ramona Rosa González).

Equality and non-discrimination (arts. 2 and 26)

5. Please describe the measures taken by the State party to address: (a) wage disparities between men and women and the occupational segregation of women in low-paid jobs in the public and private sectors; and (b) discrimination against persons with disabilities, particularly in the workplace, against migrants and against persons based on their sexual orientation or gender identity.

Violence against women (arts. 2, 3, 7 and 26)

6. In the light of the Committee's concluding observations (CCPR/C/ARG/CO/4, para. 11), please provide information on progress in the effective implementation of Act No. 26485 of 2009, on comprehensive protection for women, and Regulatory Decree No. 1011/2010. Please indicate what resources have been allocated for the implementation of the Act and provide information on the awareness-raising policies and campaigns developed in that connection and their level of implementation. Please also provide information, as from the adoption of that law, on the following: (a) the number of complaints received with regard to violence against women; (b) the investigations carried out; (c) the types of penalties imposed; (d) the compensation awarded to victims; (e) the type of comprehensive victim assistance, including free legal assistance in the courts, that has been provided in all jurisdictions of the State party, as recommended by the Committee in its previous concluding observations (CCPR/C/ARG/CO/4, para. 12); and (f) the number of shelters that are available for victims of violence.

Right to life and prohibition of torture and cruel, inhuman or degrading treatment or punishment (arts. 3, 6 and 7)

7. With reference to the Committee's previous concluding observations (CCPR/C/ARG/CO/4, para. 13), please provide information on the action taken to follow up on the draft amendments to the Criminal Code dealing with abortion. Please also report on the steps taken to ensure consistent implementation in all jurisdictions of the State party of the Supreme Court ruling *F., A.L. s/ medida autosatisfactiva* (F., A.L. s/ emergency order of protection) of 13 March 2012. Please provide information from March 2010 onward on: (a) the number of cases in which abortions have led to criminal prosecution under article 86 of the Criminal Code and the types of penalties imposed, along with the

number of cases, if any, in which women have been prosecuted for having aborted a pregnancy that was the result of rape; (b) the number of cases of legal abortion for which prior court approval was required, including details of cases in which authorization was denied and the reasons for denial. Please also describe: (a) the hospital guidelines adopted to ensure prompt and effective access to medical services in cases of legal abortion and the procedure used to safeguard this right in cases of conscientious objection by medical personnel; and (b) the steps taken to inform women and teenage girls about contraceptive methods and the prevention of unwanted pregnancies.

8. In the light of the Committee's previous concluding observations (CCPR/C/ARG/CO/4, para. 18) and the State party's follow-up reports, please provide information on the progress made in establishing a national mechanism for the prevention of torture at the federal level and in ensuring the operational independence of the mechanism and its staff and the financial autonomy necessary in order for it to properly perform its functions. Please also provide information on the establishment of adequately funded independent mechanisms at the provincial level.

9. Please indicate the impact of the policies designed to address the high incidence of torture and ill-treatment of persons deprived of their liberty at the federal and provincial levels, particularly in the Province of Buenos Aires. Please also provide statistical data on the following items at the federal and provincial levels for the period from March 2010 onward: (a) the number of complaints of alleged torture or ill-treatment by police officers or prison staff; (b) the number of disciplinary proceedings and procedures undertaken in this regard; (c) the number of prosecutions, the classifications of the offences involved and the criminal and disciplinary sanctions imposed; and (d) the protection measures put in place and the compensation provided to victims in these cases. Please provide information on the progress made in harmonizing the registration of cases of torture and ill-treatment at the national level. Please also provide information on the progress made in investigating alleged acts of torture committed in July 2012 at police station No. 11 in General Güemes (Salta Province) and in May and June 2012 at the ninth district police station in Florencia (Santa Fe Province) and on the disappearance of Luciano Arruga, the death of Damián Alejandro Sepúlveda and the alleged ill-treatment of minors in the ninth district police station in La Plata.

10. Please provide information on the steps taken to prevent corporal punishment in the home and all other settings, including childcare facilities and juvenile protection centres, and to make such punishment illegal. Please also report on measures taken to prevent bullying in schools and to implement the law of 11 September 2013 on promoting coexistence and addressing social conflict in educational institutions.

Elimination of slavery and servitude (art. 8)

11. Please provide information on the progress made in winning passage of the draft amendments to Act No. 26364 on the prevention of trafficking in persons, punishment of traffickers and assistance to victims. Please also provide statistics, at the federal and provincial levels, on the number of complaints filed, the investigations initiated and the types of penalties imposed in cases of human trafficking since March 2010. Please also describe the steps taken at all levels of the State to: (a) prevent human trafficking and identify victims of trafficking; (b) protect victims, provide them with comprehensive assistance and facilitate their eventual reintegration into society; (c) combat police corruption in cases of human trafficking; and (d) prevent trafficking in children for the purposes of bonded labour or forced prostitution and punish traffickers.

Treatment of persons deprived of their liberty, independence of the judiciary and fair trials (arts. 2, 9, 10 and 14)

12. In the light of the previous concluding observations (CCPR/C/ARG/CO/4, para. 15), please indicate which legislative provisions give police the power to detain persons for the purpose of verifying their identity and what judicial review procedures are available to determine the lawfulness of such detentions.

13. Bearing in mind the Committee's previous concluding observations (CCPR/C/ARG/CO/4, para. 16), please describe the steps taken to ensure that pretrial detention is limited to exceptional cases and is ordered only when it is necessary and consistent with articles 9 and 10 of the Covenant. Please also provide details on the progress made in increasing the use of alternatives to pretrial detention, such as bail and the utilization of electronic bracelets. Please provide data at the federal and provincial levels for the period since March 2010 on the number of persons in pretrial detention and those for whom a definitive judgement has not been handed down, including those being held in police and other security force facilities. Indicate how many remand prisoners there are as a proportion of the total prison population and what the average duration of pretrial detention has been in each year.

14. In the light of the Committee's previous concluding observations (CCPR/C/ARG/CO/4, para. 24), please indicate what measures have been taken to introduce the necessary implementing regulations for the National Mental Health Act (No. 26657). Please also provide information on the measures taken to prevent and investigate the ill-treatment of detainees in psychiatric facilities.

15. In the light of the Committee's previous concluding observations (CCPR/C/ARG/CO/4, para. 17) and the State party's follow-up reports, please provide statistical data at the federal and provincial levels for the period since March 2010 on the following: (a) the total capacity of the national prison system and the total number of prisoners held; and (b) the number of persons who have been bound over for trial who continue to be held in police stations even after a pretrial detention order has been issued. Please provide information on the outcome of the survey provided for in Resolution No. 880/13 on the living conditions and status of persons held in police stations authorized for that purpose and on any action subsequently taken. Please also provide information on the impact of the policies dealing with the renovation and improvement of sanitation in prisons such as Unit No.1 (Lisandro Olmos) or their closure in accordance with court orders to that effect. Please also indicate to what extent the State ensures the separation of untried prisoners from convicted prisoners.

16. Please provide information on the extent to which the State ensures, at the federal and provincial levels, access to legal assistance and medical care for detained persons. Please also clarify whether prison health teams are independent of the Prison Service and the Ministry of Justice and Security. Please also provide information on policies and plans for combating institutional corruption in the various federal and provincial prison systems. Please also indicate what steps have been taken to prevent and investigate prison violence and deaths, including suicides and the setting of fires. Lastly, please provide information on any provisions at the federal and provincial levels under which audiovisual recordings of persons in pretrial detention are obligatory and on the level of compliance therewith.

17. With reference to the Committee's previous concluding observations (CCPR/C/ARG/CO/4, para. 21), please indicate what progress has been made towards discovering the whereabouts of Jorge Julio López, a key witness in cases involving crimes against humanity, and the progress of the investigations into his disappearance. Please also indicate what steps have been taken to put a stop to the intimidation of judges and lawyers

which is presumed to have occurred in these cases. Please also provide information on the measures taken to strengthen the National Programme for the Protection of Witnesses and Defendants, and please clarify whether witnesses deprived of their liberty are also protected under the Programme.

18. In the light of the Committee's previous concluding observations (CCPR/C/ARG/CO/4, para. 9), please indicate what steps have been taken by the State party to speed up the various stages of the judicial proceedings, including cassation, instituted against those responsible for serious human rights violations during the military dictatorship from 1976 to 1983. Please also indicate the number of persons charged, prosecuted and punished for these crimes since March 2010 and the penalties imposed.

19. Bearing in mind the Committee's previous concluding observations (CCPR/C/ARG/CO/4, para. 10), please indicate what the current composition of the Council of the Magistrature is and how many of its members are appointed by the executive branch. Please also report on the progress made in furthering judicial reform measures and comment on their content in the light of Covenant principles.

20. With reference to the Committee's previous concluding observations (CCPR/C/ARG/CO/4, para. 19), please indicate what steps have been taken by the State party to amend federal and provincial criminal legislation dealing with appeals in cassation in order to guarantee the right of everyone convicted of a crime to appeal to a higher court for a full review of the judgement against them. Please also clarify whether any remedy is available in the ordinary criminal justice system that persons convicted in second instance can use to appeal a conviction that has overturned a first-instance acquittal.

21. In the light of the Committee's concluding observations (CCPR/C/ARG/CO/4, para. 20), please provide information on the steps taken to ensure the full operational and budgetary independence of the offices of the public defender from the offices of the attorneys-general in all provinces of the State party. Please also give information on the steps taken to provide the offices of the public defender, at all levels of the State, with the necessary resources to provide effective service to persons who are placed under arrest from the time of their arrest onward.

Protection of the rights of children (arts. 7 and 24)

22. In the light of the previous concluding observations (CCPR/C/ARG/CO/4, para. 23), please provide information on the follow-up given to the bill that would provide for the establishment of a juvenile criminal justice system and that would repeal Act No. 22278. In this respect, please provide information on the steps taken to: (a) ensure that juveniles in conflict with the law are placed in appropriate centres that facilitate their reintegration into society and that do not place minors in strict confinement or isolation (*engome*); (b) use the detention or imprisonment of juveniles only as a last resort and for as short a time as possible; (c) guarantee juveniles in conflict with the law the right to be heard in criminal proceedings concerning them and the right to appropriate legal assistance; (d) abolish the practice of sentencing persons to life imprisonment for crimes that they committed crimes as juveniles and ensure that persons currently serving such sentences for crimes committed as juveniles may have their sentences reviewed; and (e) establish an independent mechanism to monitor juvenile detention facilities' compliance with Covenant rights. Please also provide information on public policies on the prevention of juvenile delinquency.

Freedom of opinion and expression and the right to privacy (arts. 17 and 19)

23. Please indicate what steps have been taken to ensure the safety of journalists in the exercise of their profession. In this regard, please report on the outcome of investigations carried out since March 2010 into cases involving violence and intimidation directed at journalists and other members of the media. Please also provide information on the criteria used for allocating government spending on advertisements and announcements among media outlets and comment on their compatibility with the Covenant. Please also indicate what measures have actually been taken to prevent the unauthorized use of personal data.

Equality and non-discrimination and the protection of the rights of persons belonging to ethnic minorities (arts. 2, 26 and 27)

24. In the light of the Committee's preceding concluding observations (CCPR/C/ARG/CO/4, para. 25) and the State party follow-up reports, please provide information on the level of implementation of the National Indigenous Communities Land Survey Programme and on the issuance of title deeds to ancestral lands. Please also provide information on the steps taken to protect indigenous communities who have been subjected to forced evictions or dispossession of their ancestral lands and to provide them with effective remedies. Please also provide information on the steps taken to ensure that the legal provisions for the protection of the rights of indigenous peoples are applied by officials and those involved in the administration of justice in the provinces. Please provide information on the initiatives undertaken to ensure the prompt and impartial investigation of acts of violence and intimidation committed against indigenous people (such as those directed against members of the Potae Napocna Navogoh (Spring) community) during forced evictions and social protests against ventures undertaken on ancestral lands.

25. Please report on the steps taken to ensure that the free, prior and informed consent of indigenous peoples is obtained before approval is given for natural-resource development projects in indigenous territories. Please also report on the progress made towards the adoption of the Civil Code reform bill and the extent to which indigenous peoples have been consulted on those of its aspects that have a bearing on their rights.

26. Please indicate what measures have been taken by the State party to combat the discrimination faced by people of African descent and indigenous communities, especially with regard to access to education, health services and employment. Please also indicate what measures have been taken to raise the currently low level of participation by members of indigenous peoples, especially women, in political life.